

As a consumer of digital content, I have a grave concern about the proposed Broadcast Flag. I enjoy the flexibility and control that technology gives me. I can be more than a passive recipient of content; I can modify, create and participate. Technology currently gives me more choices by allowing me to record a television program and watch it later; clip a small piece of TV and splice it into a home movie; send an email clip of my child's football game to a distant relative; or record a TV program onto a DVD and play it at my friend's apartment. The broadcast flag seems designed to remove this control and flexibility that I enjoy.

Historically, the law has allowed for those not affiliated with creating content to come up with new, unanticipated ways of using it. For example, Sony invented the modern VCR -- a movie studio did not. (Sony did not own a movie studio at the time.) Diamond Multimedia invented the MP3 player -- a recording label did not. Unfortunately, the broadcast flag has the potential to put an end to that dynamic. Because the broadcast flag defines what uses are authorized and which are not, unanticipated uses of content which are not foreseeable today are by default unauthorized. If we allow the content industry to "lock in" the definition of what is and is not legitimate use, we curtail the ability for future innovation - unanticipated but legal uses that will benefit consumers.

Implementing the broadcast flag is like the RIAA's assault on digital music piracy with their intent to restrict fair use rights of legal music that I have bought, whether that be transferring it to my MP3 player, or making a mix of all the songs that I own. The broadcast flag hurts all consumers, whether they are legal law-abiding citizens, or if they are actual pirates of digital content. The content industry seems hell-bent on taking away the rights of all consumers, not just those who break the law, and is therefore pursuing the wrong course of action. It should instead focus on stopping piracy by not implementing procedures that will affect all consumers, but by focusing on finding and prosecuting those who do break the law.

I believe that piracy should be prevented and prosecuted, because I understand that content providers have the right to protect their content and to get compensation from those who use/listen to their content. However, if theoretical prevention comes at the cost of prohibiting me from making legal, personal use of my content, then this prevention is not the right course of action. The FCC should be working to protect all consumers rather than enable those who would restrict consumer rights, like the RIAA and the movie/content industry. In the case of the broadcast flag, it seems that it will have little effect on piracy. With file-sharing networks, a TV program has only to be cracked once, and it will propagate rapidly across the Internet. And, as has been demonstrated time and time again, the people who pirate the content always find ways around prevention. So, while I may be required to purchase consumer electronic devices that cost more and allow me to do less, piracy ! will not be diminished. Obviously, this should not be the end goal of the industry working to protect their content.

In closing, I urge you to require that the content industry demonstrate that its proposed technologies will allow will actually achieve the stated goal of preventing piracy. They must also demonstrate that this technology does not inhibit my rights to fair use even while preventing piracy. If they cannot demonstrate this, I urge you not to mandate the broadcast flag. Otherwise, it would be a big blow to consumers' rights, something that seems (for some reason) to be under heavy attack today.